

First Judicial District of Pennsylvania

51CR00047732011

Johnnie Simmons

*Trial (Jury) Volume 5
December 15, 2011*



*First Judicial District of Pennsylvania
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[1] IN THE COURT OF COMMON PLEAS
[2] FIRST JUDICIAL DISTRICT OF PENNSYLVANIA
[3] CRIMINAL TRIAL DIVISION
[4] ---
[5]
[6] COMMONWEALTH : CP-51-CR-0004773-2011
[7] :
[8] V. :
[9] :
[10] JOHNNIE SIMMONS :
[11] :
[12] ---
[13] Courtroom 802, Criminal Justice Center
[14] Philadelphia, Pennsylvania
[15] ---
[16] December 15, 2011
[17] ---
[18] Jury Trial
[19] Volume VI
[20] ---
[21] B E F O R E: THE HONORABLE SANDY L. V. BYRD, J.
[22] **APPEARANCES:**
[23] STACY FORCHETTI, ESQUIRE
[24] Assistant District Attorney
[25] For the Commonwealth

[26] VINCENT LORUSSO, ESQUIRE
[27] Counsel for the Defendant
[28] Jaclyne Wilson

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[1] Would the foreperson please rise and
[2] identify yourself by seat number.
[3] **JUROR FOREPERSON:** Juror No. 8,
[4] Your Honor.
[5] **THE COURT:** Mr. Foreman, does the jury
[6] have a communication for the Court?
[7] **JUROR FOREPERSON:** We do, Your Honor.
[8] **THE COURT:** Would you communicate to me
[9] exactly as it's written in your writing.
[10] **JUROR FOREPERSON:** Your Honor, we are
[11] deadlocked. Could His Honor please provide further
[12] instruction and guidance?
[13] **THE COURT:** Thank you, sir.
[14] **JUROR FOREPERSON:** Thank you, Your Honor.
[15] **THE COURT:** Ladies and gentlemen, you
[16] have, by my calculation, been in deliberation on
[17] this case for, approximately, 18 hours. Obviously
[18] you're having some difficulty resolving the issues
[19] raised in this case. Now, on the one hand that
[20] difficulty may very well be an indication of the
[21] sincerity and objectivity with which you have
[22] approached your duty. On the other hand, it may be
[23] the result of some confusion in your collective
[24] minds about the instructions I gave you on the rules
[25] of law and the application of those rules to the
Jaclyne Wilson

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[1] **THE COURT:** We are back on the record in
[2] our trial case. This is the case of Commonwealth
[3] vs. Johnnie Simmons, CP-51-CR-00004773-2011.
[4] The defendant is here with his attorney,
[5] Mr. Lorusso. The Commonwealth by Ms. Forchetti.
[6] Counsel, Mr. Simmons, we have yet another
[7] communication from the jury. It reads as follows:
[8] Your Honor, we are deadlocked. Could His Honor
[9] please provide further guidance? Signed, Juror No.
[10] 8.
[11] Mr. Lorusso, how would you have me
[12] respond?
[13] **MR. LORUSSO:** I would expect the Court
[14] would reinstruct the jury with regards to the manner
[15] of deliberation. I leave that to the Court's
[16] discretion.
[17] **THE COURT:** Ms. Forchetti?
[18] **MS. FORCHETTI:** Your Honor, I believe it
[19] would be appropriate at this time to give them what
[20] we commonly refer to as the Spencer charge.
[21] **THE COURT:** I'm in agreement. Let's
[22] bring them out.
[23] (Jury enters the courtroom at 12:20 p.m.)
[24] **THE COURT:** Good morning, ladies and
[25] gentlemen.
Jaclyne Wilson

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[1] facts of this case.
[2] So to that end, I will call on you twice,
[3] Mr. Foreman, to speak for your fellow jurors. Does
[4] the jury require any additional or clarifying
[5] instructions on the law as it applies to this case,
[6] Mr. Foreman?
[7] **JUROR FOREPERSON:** We don't, Your Honor.
[8] **THE COURT:** Mr. Foreman, I shall put
[9] another question to you. In your judgement speaking
[10] on behalf of your fellow jurors, is there a
[11] reasonable probability of the jury reaching a
[12] unanimous verdict on any of the charges in this
[13] case?
[14] **JUROR FOREPERSON:** No, Your Honor.
[15] **THE COURT:** Thank you, sir.
[16] **JUROR FOREPERSON:** Thank you, Your Honor.
[17] **THE COURT:** Ladies and gentlemen, please
[18] understand that a verdict in this case is of great
[19] importance to both the defendant and the
[20] Commonwealth. A retrial of this case will come at
[21] additional time, anxiety and expense on both sides.
[22] However, of paramount importance is the following:
[23] You jurors must appreciate that any verdict you
[24] return must be unanimous. That you have a duty to
[25] consult with one another and to deliberate with a
Jaclyne Wilson

[1] conscious view of reaching an agreement if it can be
[2] done without violence to individual judgement. That
[3] each of you must decide the case for himself or
[4] herself but only after an impartial consideration of
[5] the evidence with his or her fellow jurors. That a
[6] juror should not hesitate to reexamine his or her
[7] own views and to change his or her opinion if
[8] convinced that it is erroneous. That no juror
[9] should surrender his or her honest convictions as to
[10] the weight or effect of the evidence simply because
[11] of the opinion of his or her fellow jurors or for
[12] the mere purpose of returning a unanimous verdict.

[13] Please, ladies and gentlemen, keep in
[14] mind all of the previous instructions I've given you
[15] and the instructions just imparted because this
[16] Court is sending you back to the deliberation room
[17] to give further consideration to both the evidence
[18] and the instructions to see if you can arrive at a
[19] unanimous verdict. Obviously, if the Court can be
[20] of any assistance or if you have additional
[21] comments, do not hesitate to bring it to my
[22] attention and I shall address your comments,
[23] concerns or questions.

[24] Thank you, ladies and gentlemen. Please
[25] return to the deliberation room.

Jaclyne Wilson

[1] client and I would ask Your Honor to instruct them
[2] to deliberate.

[3] **THE COURT:** Ms. Forchetti?

[4] **MS. FORCHETTI:** Your Honor, I would ask
[5] that we take the verdict on the one count and send
[6] them back to deliberate.

[7] **THE COURT:** Mr. Lorusso, rule 1120 D
[8] makes it fairly clear that we should take the
[9] partial verdict. It reads in pertinent part: If
[10] there are two or more counts in the information or
[11] indictment, the jury may record a verdict or
[12] verdicts with respect to those counts upon which it
[13] has agreed and the judge shall receive and record
[14] such verdicts.

[15] So what we do after that depends on the
[16] jury, but at this juncture we have an obligation to
[17] take the partial verdict.

[18] Can we agree on that, Ms. Forchetti?

[19] **MS. FORCHETTI:** Yes, Your Honor.

[20] **THE COURT:** Mr. Lorusso?

[21] **MR. LORUSSO:** I will agree with that.

[22] **THE COURT:** All right. So bring the
[23] jurors out and we'll take the partial verdict.

[24] (Pause.)

[25] **THE COURT:** Counsel, earlier I made
Jaclyne Wilson

(Jury exits the courtroom at 12:25 p.m.)

[2] **THE COURT:** All right. Ms. Forchetti,
[3] Mr. Lorusso, is there anything else?

[4] **MR. LORUSSO:** No, Your Honor.

[5] **MS. FORCHETTI:** No, Your Honor. I'll
[6] stay close.

[7] **THE COURT:** All right. Thank you,
[8] sheriff.

[9] (Deliberations.)

[10] **THE COURT:** This is the case of
[11] Commonwealth vs. Johnnie Simmons. Mr. Simmons is
[12] here with his attorney, Mr. Lorusso. Ms. Forchetti
[13] for the Commonwealth.

[14] Counsel, I'm in receipt of the most
[15] recent question. It reads, Your Honor, we the jury
[16] have unanimously agreed -- strike that. Your Honor,
[17] we the jury have unanimously reached a verdict on
[18] only one count. We have not been able to move on
[19] the other four counts.

[20] What's your view as to how we should
[21] proceed, Mr. Lorusso?

[22] **MR. LORUSSO:** Can I ask my client?

[23] (Pause.)

[24] **THE COURT:** Yes, sir?

[25] **MR. LORUSSO:** I've discussed with my
Jaclyne Wilson

[1] reference to a rule in which directs the ruling of
[2] taking a partial verdict. The rule number is 648 D.
[3] I stand corrected.

[4] Shall we bring the jurors in,
[5] Mr. Lorusso?

[6] **MR. LORUSSO:** Yes, Your Honor.

[7] **THE COURT:** Ms. Forchetti?

[8] **MS. FORCHETTI:** Yes, Your Honor.

[9] **THE COURT:** Very well.

[10] (Jury enters the courtroom at 4:22 p.m.)

[11] **THE COURT:** Good afternoon, ladies and
[12] gentlemen.

[13] Would the foreperson please rise and
[14] identify yourself by seat number.

[15] **JUROR FOREPERSON:** Juror No. 8,
[16] Your Honor.

[17] **THE COURT:** Mr. Foreman, does the jury
[18] have a communication for the Court?

[19] **JUROR FOREPERSON:** We do, Your Honor.

[20] **THE COURT:** Would you read it as it
[21] appears in your writing.

[22] **JUROR FOREPERSON:** Your Honor, we the
[23] jury have unanimously reached a verdict on only one
[24] count. We've not been able to move on the four
[25] other counts.

Jaclyne Wilson

[1] **THE COURT:** Mr. Foreman, I'm obliged to
[2] ask you a number of follow up questions. Please, do
[3] not give me any account of how the jurors have
[4] broken down in their deliberations.
[5] **JUROR FOREPERSON:** Yes, Your Honor.
[6] **THE COURT:** Do not reveal to me in
[7] response to any question I put the dynamics of your
[8] deliberations.
[9] Do you understand me, sir?
[10] **JUROR FOREPERSON:** Yes, Your Honor.
[11] **THE COURT:** Here are the questions I have
[12] for you, and the first question will appear to be
[13] redundant in light of your earlier statement but I
[14] must ask it anyway.
[15] **JUROR FOREPERSON:** Yes, Your Honor.
[16] **THE COURT:** Mr. Foreman, has the jury
[17] reached a unanimous verdict on all of the charges?
[18] **JUROR FOREPERSON:** No, Your Honor.
[19] **THE COURT:** Mr. Foreman, has the jury
[20] reached a unanimous verdict on any of the charges?
[21] **JUROR FOREPERSON:** Yes, Your Honor.
[22] **THE COURT:** Mr. Foreman, has the jury
[23] reached a unanimous verdict on the charge of
[24] attempted murder?
[25] **JUROR FOREPERSON:** No, Your Honor.
Jaclyne Wilson

[1] Mr. Ferguson, in light of the foregoing
[2] we shall take the verdict on the one offense wherein
[3] the jury is unanimous and you may proceed on that
[4] and that alone.
[5] **COURT CRIER:** Okay. Will the foreperson
[6] please stand.
[7] Have you reached a verdict?
[8] **JUROR FOREPERSON:** Yes, we have.
[9] **COURT CRIER:** Have you reached a verdict
[10] on the one charge of conspiracy?
[11] **JUROR FOREPERSON:** We have.
[12] **COURT CRIER:** Okay. Will the defendant
[13] please rise and face the jury.
[14] In the case of Commonwealth vs. Johnnie
[15] Simmons, CP-51-CR-0004773-2011, to the charge of
[16] conspiracy, what is your verdict?
[17] **JUROR FOREPERSON:** Guilty.
[18] **COURT CRIER:** I shall read the
[19] interrogatory.
[20] What was the object of crime? What is
[21] your answer?
[22] **JUROR FOREPERSON:** Murder.
[23] **COURT CRIER:** Your Honor, may the verdict
[24] be recorded?
[25] **THE COURT:** Any objection to the verdict
Jaclyne Wilson

[1] **THE COURT:** Mr. Foreman, has the jury
[2] reached a unanimous verdict on the charge of
[3] aggravated assault?
[4] **JUROR FOREPERSON:** No, Your Honor.
[5] **THE COURT:** Mr. Foreman, has the jury
[6] reached a unanimous verdict on possession of an
[7] instrument of crime?
[8] **JUROR FOREPERSON:** No, Your Honor.
[9] **THE COURT:** Mr. Foreman, has the jury
[10] reached a unanimous verdict on carrying a firearm
[11] without a license?
[12] **JUROR FOREPERSON:** No, Your Honor.
[13] **THE COURT:** Mr. Foreman, has the jury
[14] reached a unanimous verdict on the charge of
[15] conspiracy?
[16] **JUROR FOREPERSON:** Yes, Your Honor.
[17] **THE COURT:** In light of the statement by
[18] the foreperson, Mr. Lorusso, shall we take the
[19] verdict on the charge of conspiracy?
[20] **MR. LORUSSO:** Yes, Your Honor.
[21] **THE COURT:** In light of the statement by
[22] the foreperson, Ms. Forchetti, shall we take the
[23] verdict on the charge of conspiracy?
[24] **MS. FORCHETTI:** Yes, Your Honor.
[25] **THE COURT:** Thank you.
Jaclyne Wilson

[1] being reordered, Ms. Forchetti?
[2] **MS. FORCHETTI:** No, Your Honor.
[3] **THE COURT:** Any objection to the verdict
[4] being recorded, Mr. Lorusso?
[5] **MR. LORUSSO:** May the jury be polled?
[6] **THE COURT:** You wish to have the jurors
[7] polled, sir?
[8] **MR. LORUSSO:** Yes, Your Honor.
[9] **THE COURT:** Jurors, there is a request
[10] for polling. The crier will call out each juror by
[11] number. The juror should rise and the crier will
[12] ask you, On the charge of conspiracy, what is your
[13] verdict, guilty or not guilty? And you should
[14] answer in accordance with your verdict.
[15] Is that agreed, Mr. Lorusso?
[16] **MR. LORUSSO:** Yes, Your Honor.
[17] **THE COURT:** Is that agreed,
[18] Ms. Forchetti?
[19] **MS. FORCHETTI:** Yes, Your Honor.
[20] **THE COURT:** We shall commence.
[21] **COURT CRIER:** Juror No. 1, will you
[22] please stand.
[23] On the charge of conspiracy, what is your
[24] answer, guilty or not guilty?
[25] **JUROR NO. 1:** Guilty.
Jaclyne Wilson

[1] **THE COURT:** Ask him about the second
[2] part, what is the objective of the conspiracy.
[3] **COURT CRIER:** Okay. And to the
[4] interrogatory question, what is your answer to what
[5] was the object of crime?
[6] **JUROR NO. 1:** Murder.
[7] **COURT CRIER:** Thank you, sir. You may be
[8] seated.
[9] Juror No. 2, to the charge of conspiracy,
[10] what is your answer, guilty or not guilty?
[11] **JUROR NO. 2:** Guilty.
[12] **COURT CRIER:** And to the interrogatory
[13] question, what was the object of crime?
[14] **JUROR NO. 2:** Murder.
[15] **COURT CRIER:** Thank you. You may be
[16] seated.
[17] Juror No. 3, to the charge of conspiracy,
[18] what is your answer, guilty or not guilty?
[19] **JUROR NO. 3:** Guilty.
[20] **COURT CRIER:** And to the interrogatory
[21] question, what was the object crime?
[22] **JUROR NO. 3:** Murder.
[23] **COURT CRIER:** Thank you. You may be
[24] seated.
[25] Juror No. 4, to the charge of conspiracy,
Jaclyne Wilson

[1] **JUROR NO. 7:** Guilty.
[2] **COURT CRIER:** And to the interrogatory
[3] question, what was the object of crime?
[4] **JUROR NO. 7:** Murder.
[5] **COURT CRIER:** Thank you. You may be
[6] seated.
[7] Juror No. 8, Mr. Foreperson, to the
[8] charge of conspiracy, what is your answer, guilty or
[9] not guilty?
[10] **JUROR FOREPERSON:** Guilty.
[11] **COURT CRIER:** And to the interrogatory
[12] question, what was the object of crime?
[13] **JUROR FOREPERSON:** Murder.
[14] **COURT CRIER:** Thank you. You may be
[15] seated.
[16] Juror No. 9, to the charge of conspiracy,
[17] what is your answer, guilty or not guilty?
[18] **JUROR NO. 9:** Guilty.
[19] **COURT CRIER:** And to the interrogatory
[20] question, what was the object of crime?
[21] **JUROR NO. 9:** Murder.
[22] **COURT CRIER:** Thank you. You may be
[23] seated.
[24] Juror No. 10, to the charge of
[25] conspiracy, what is your answer, guilty or not
Jaclyne Wilson

[1] what is your verdict, guilty or not guilty?
[2] **JUROR NO. 4:** Guilty.
[3] **COURT CRIER:** And to the interrogatory
[4] question, what was the object of crime?
[5] **JUROR NO. 4:** Murder.
[6] **COURT CRIER:** Thank you. You may be
[7] seated.
[8] Juror No. 5, to the charge of conspiracy,
[9] what is your answer, guilty or not guilty?
[10] **JUROR NO. 5:** Guilty.
[11] **COURT CRIER:** And to the interrogatory
[12] question, what was the object of crime?
[13] **JUROR NO. 5:** Murder.
[14] **COURT CRIER:** Thank you. You may be
[15] seated.
[16] Juror No. 6, to the charge of conspiracy,
[17] what is your answer, guilty or not guilty?
[18] **JUROR NO. 6:** Guilty.
[19] **COURT CRIER:** And to the interrogatory
[20] question, what was the object of crime?
[21] **JUROR NO. 6:** Murder.
[22] **COURT CRIER:** Thank you. You may be
[23] seated.
[24] Juror No. 7, to the charge of conspiracy,
[25] what is your answer, guilty or not guilty?
Jaclyne Wilson

[1] guilty?
[2] **JUROR NO. 10:** Guilty.
[3] **COURT CRIER:** And to the interrogatory
[4] question, what was the object of crime?
[5] **JUROR NO. 10:** Murder.
[6] **COURT CRIER:** Thank you, sir. You may be
[7] seated.
[8] Juror No. 11, to the charge of
[9] conspiracy, what is your answer, guilty or not
[10] guilty?
[11] **JUROR NO. 11:** Guilty.
[12] **COURT CRIER:** And to the interrogatory
[13] question, what was the object of crime?
[14] **JUROR NO. 11:** Murder.
[15] **COURT CRIER:** Thank you. You may be
[16] seated.
[17] Juror No. 12, to the charge of
[18] conspiracy, what is your answer, guilty or not
[19] guilty?
[20] **JUROR NO. 12:** Guilty.
[21] **COURT CRIER:** And to the interrogatory
[22] question, what was the object of crime?
[23] **JUROR NO. 12:** Murder.
[24] **COURT CRIER:** Thank you.
[25] Your Honor, may the verdict be recorded
Jaclyne Wilson

[1] on conspiracy?
[2] **THE COURT:** Mr. Lorusso, are you
[3] satisfied with the polling?
[4] **MR. LORUSSO:** Yes, Your Honor.
[5] **THE COURT:** May the verdict be recorded
[6] as announced, guilty to criminal conspiracy, object
[7] crime being murder?
[8] **MR. LORUSSO:** Yes, Your Honor.
[9] **THE COURT:** May I see the verdict sheet?
[10] (Pause.)
[11] **THE COURT:** Let the record reflect that
[12] on CP-51-CR-0004773-2011, the case of Commonwealth
[13] vs. Johnnie Simmons, the verdict sheet with respect
[14] to the partial verdict has been completed, signed by
[15] the foreperson who affixes his juror number and
[16] dated wherein it states the defendant has been found
[17] guilty of conspiracy and the object crime to be
[18] murder.
[19] Ladies and gentlemen, I must meet with
[20] the attorneys. Would you please -- I'm sorry,
[21] Mr. Ferguson. Finish that process.
[22] **COURT CRIER:** Jurors, harken unto the
[23] verdict as it is recorded and so say you all?
[24] **JURORS:** Yes.
[25] **COURT CRIER:** Thank you.
Jaclyne Wilson

[1] the jury have unanimously reached a verdict on only
[2] one count. We have not been able to move on the
[3] other four counts. Prior to that the note read,
[4] Your Honor, we are deadlocked. Would Your Honor
[5] please provide further guidance?
[6] Juror No. 1, were the notes I just read a
[7] reflection of your position at the time they were
[8] written, yes or no?
[9] **JUROR NO. 1:** Yes, Your Honor.
[10] **THE COURT:** Juror No. 2, were the notes I
[11] just read a reflection of your position at the time
[12] they were written?
[13] **JUROR NO. 2:** Yes, Your Honor.
[14] **THE COURT:** Juror No. 3, were the two
[15] notes I just read a reflection of your position at
[16] the time they were written?
[17] **JUROR NO. 3:** Yes, Your Honor.
[18] **THE COURT:** Juror No. 4, were the two
[19] notes I just read a reflection of your position at
[20] the time they were written?
[21] **JUROR NO. 4:** Yes, Your Honor.
[22] **THE COURT:** Juror No. 5, were the two
[23] notes I just read a reflection of your position at
[24] the time they were written, yes or no?
[25] **JUROR NO. 5:** Yes, Your Honor.
Jaclyne Wilson

[1] **THE COURT:** Would you ladies and
[2] gentlemen return to the deliberation room for I must
[3] meet with the attorneys.
[4] (Jury exits the courtroom at 4:31 p.m.)
[5] **THE COURT:** All right. We are back on
[6] the record. The defendant is again present with his
[7] attorney, Mr. Lorusso. The Commonwealth by
[8] Ms. Forchetti. The defendant is obviously here.
[9] The jurors are not present.
[10] Mr. Lorusso, what's your pleasure, sir?
[11] **MR. LORUSSO:** If the jury has indicated
[12] that they are hopeless deadlocked, I would move for
[13] a mistrial on the remaining charges.
[14] **THE COURT:** Before I rule on your motion,
[15] I'm going to colloquy the jurors.
[16] Would you bring the jurors out,
[17] Mr. Ferguson?
[18] **COURT CRIER:** Certainly.
[19] (Jury enters the courtroom at 4:44 p.m.)
[20] **THE COURT:** Ladies and gentlemen, I'm
[21] obliged to have a colloquy with each of you which is
[22] nothing more than a conversation. I am going to
[23] preface the questions that I put to you by reading
[24] the last two notes received from your foreperson.
[25] The very last note said, Your Honor, we
Jaclyne Wilson

[1] **THE COURT:** Juror No. 6, were the two
[2] notes I just read a reflection of your position at
[3] the time they were written?
[4] **JUROR NO. 6:** Yes, Your Honor.
[5] **THE COURT:** Juror No. 7, were the two
[6] notes I just read a reflection of your position at
[7] the time they were written, yes or no?
[8] **JUROR NO. 7:** Yes, Your Honor.
[9] **THE COURT:** Juror No. 8, were the two
[10] notes I just read a reflection of your position at
[11] the time they were written?
[12] **JUROR NO. 8:** Yes, Your Honor.
[13] **THE COURT:** Juror No. 9, were the two
[14] notes I just read a reflection of your position at
[15] the time they were written, yes or no?
[16] **JUROR NO. 9:** Yes, Your Honor.
[17] **THE COURT:** Juror No. 10, were the two
[18] notes I just read a reflection of your position at
[19] the time they were written, yes or no?
[20] **JUROR NO. 10:** Yes, Your Honor.
[21] **THE COURT:** Juror No. 11, were the two
[22] notes I just read a reflection of your position at
[23] the time they were written, yes or no?
[24] **JUROR NO. 11:** Yes, Your Honor.
[25] **THE COURT:** Juror No. 12, were the two
Jaclyne Wilson

[1] notes I just read a reflection of your position at
[2] the time they were written, yes or no?
[3] **JUROR NO. 12:** Yes, Your Honor.
[4] **THE COURT:** Juror No. 1, do you believe
[5] that there is a probability that a unanimous verdict
[6] will be reached on all of the charges if there were
[7] further deliberations?
[8] **JUROR NO. 1:** No, Your Honor.
[9] **THE COURT:** Juror No. 1, do you believe
[10] that there would be a unanimous verdict on any of
[11] the remaining charges if there were further
[12] deliberations?
[13] **JUROR NO. 1:** No, Your Honor.
[14] **THE COURT:** In your position is the jury
[15] hopelessly deadlocked?
[16] **JUROR NO. 1:** Yes, it is, Your Honor.
[17] **THE COURT:** Juror No. 2, do you believe
[18] that there is a probability that a unanimous verdict
[19] will be reached on all of the charges?
[20] **JUROR NO. 2:** No, Your Honor.
[21] **THE COURT:** Juror No. 2, do you believe
[22] that there would be a unanimous verdict on any of
[23] the remaining charges if there were further
[24] deliberations?
[25] **JUROR NO. 2:** No.
Jaclyne Wilson

[1] **THE COURT:** Is it your position, sir,
[2] that the jury is hopelessly deadlocked?
[3] **JUROR NO. 4:** Yes, Your Honor.
[4] **THE COURT:** Juror No. 5, do you believe
[5] that there is a probability that the jury would
[6] reach a unanimous verdict on all of the charges if
[7] there were further deliberations?
[8] **JUROR NO. 5:** No, Your Honor.
[9] **THE COURT:** Juror No. 5, do you believe
[10] that there's a probability that the jury would reach
[11] a unanimous verdict on any of the remaining charges
[12] if there were further deliberations?
[13] **JUROR NO. 5:** No, Your Honor.
[14] **THE COURT:** Juror No. 5, is it your
[15] position that the jury is hopelessly deadlocked?
[16] **JUROR NO. 5:** Yes, Your Honor.
[17] **THE COURT:** Juror No. 6, do you believe
[18] that there is a probability that the jury would
[19] reach a unanimous verdict on all of the charges if
[20] there were further deliberations?
[21] **JUROR NO. 6:** No, Your Honor.
[22] **THE COURT:** Juror No. 6, do you believe
[23] that there's a probability that the jury would reach
[24] a unanimous verdict on any of the remaining charges
[25] if there were further deliberations?
Jaclyne Wilson

[1] **THE COURT:** Juror No. 2, do you believe
[2] that the jury is hopelessly deadlocked?
[3] **JUROR NO. 2:** Yes.
[4] **THE COURT:** Juror No. 3, do you believe
[5] that there is a probability that the jury would
[6] reach a unanimous verdict on all of the remaining
[7] charges if there were further deliberations?
[8] **JUROR NO. 3:** No.
[9] **THE COURT:** Juror No. 3, do you believe
[10] that there would be a unanimous verdict on any of
[11] the charges if there were further deliberations?
[12] **JUROR NO. 3:** No.
[13] **THE COURT:** Juror No. 3, is it your
[14] position that the jury is hopelessly deadlocked?
[15] **JUROR NO. 3:** Yes.
[16] **THE COURT:** Juror No. 4, do you believe
[17] that there is a probability that a unanimous verdict
[18] will be reached on all of the charges if there were
[19] further deliberations?
[20] **JUROR NO. 4:** No, Your Honor.
[21] **THE COURT:** Juror No. 4, do you believe
[22] that there is a probability that the jurors would
[23] reach a unanimous verdict on any of the remaining
[24] charges if there were further deliberations?
[25] **JUROR NO. 4:** No, Your Honor.
Jaclyne Wilson

[1] **JUROR NO. 6:** No, Your Honor.
[2] **THE COURT:** Ma'am, do you believe that
[3] the jury is hopelessly deadlocked?
[4] **JUROR NO. 6:** I do, Your Honor.
[5] **THE COURT:** Juror No. 7, do you believe
[6] that there is a probability that the jury would
[7] reach a unanimous verdict on all of the remaining
[8] charges if there were further deliberations?
[9] **JUROR NO. 7:** No, Your Honor.
[10] **THE COURT:** Juror No. 7, do you believe
[11] that there's a probability that the jury would reach
[12] a unanimous verdict on any of the remaining charges
[13] upon further deliberations?
[14] **JUROR NO. 7:** No, Your Honor.
[15] **THE COURT:** Is it your view that the jury
[16] is hopelessly deadlocked?
[17] **JUROR NO. 7:** Yes, Your Honor.
[18] **THE COURT:** Juror No. 8, do you believe
[19] that there is a probability that the jury would
[20] reach a unanimous verdict on all of the remaining
[21] charges if there were further deliberations?
[22] **JUROR NO. 8:** No, Your Honor.
[23] **THE COURT:** Juror No. 8, do you believe
[24] that there's a probability that the jury would reach
[25] a unanimous verdict on any of the remaining charges
Jaclyne Wilson

[1] if there were further deliberations?
[2] **JUROR NO. 8:** No, Your Honor.
[3] **THE COURT:** Juror No. 8, is it your
[4] position that this jury is hopelessly deadlocked?
[5] **JUROR NO. 8:** It is, Your Honor.
[6] **THE COURT:** Juror No. 9, do you believe
[7] that there is a probability that the jury would
[8] reach a unanimous verdict on all of the remaining
[9] charges?
[10] **JUROR NO. 9:** No, Your Honor.
[11] **THE COURT:** Juror No. 9, do you believe
[12] that there's a probability that the jury would reach
[13] a unanimous verdict on any of the remaining charges
[14] if there were further deliberations?
[15] **JUROR NO. 9:** No, Your Honor.
[16] **THE COURT:** Is it your position that this
[17] jury is hopelessly deadlocked?
[18] **JUROR NO. 9:** Yes, Your Honor.
[19] **THE COURT:** Juror No. 10, do you believe
[20] that there is a probability that a unanimous verdict
[21] will be reached on all of the remaining charges if
[22] there were further deliberations?
[23] **JUROR NO. 10:** No, Your Honor.
[24] **THE COURT:** Juror No. 10, do you believe
[25] that there would be a unanimous verdict on any of
Jaclyne Wilson

[1] any of the remaining charges if there were further
[2] deliberations?
[3] **JUROR NO. 12:** No, Your Honor.
[4] **THE COURT:** Is it your position that this
[5] jury is hopelessly deadlocked?
[6] **JUROR NO. 12:** Yes.
[7] **THE COURT:** Would you ladies and
[8] gentlemen be so kind as to wait for us in the jury
[9] deliberation room.
[10] (Jury exits the courtroom at 4:53 p.m.)
[11] **THE COURT:** May I see counsel?
[12] (Sidebar held off the record.)
[13] **THE COURT:** Counsel, the jury having
[14] reaching a verdict on conspiracy, the Court's
[15] obliged to order both a presentence and mental
[16] health evaluation and set the matter down for
[17] imposition of sentence.
[18] Before I do that, Mr. Lorusso, do you
[19] wish to renew your motion?
[20] **MR. LORUSSO:** I would have a motion for
[21] mistrial on the remaining charges, Your Honor.
[22] **THE COURT:** Let the record reflect the
[23] following: The Court finds manifest necessity. The
[24] jurors obviously have been polled and they voiced
[25] their inability to reach a unanimous verdict on the
Jaclyne Wilson

[1] the remaining charges if there were further
[2] deliberations?
[3] **JUROR NO. 10:** No, Your Honor.
[4] **THE COURT:** Is it your position that this
[5] jury is hopelessly deadlocked?
[6] **JUROR NO. 10:** Yes.
[7] **THE COURT:** Juror No. 11, is there a
[8] probability that this jury would reach a unanimous
[9] verdict on all of the charges if there were further
[10] deliberations?
[11] **JUROR NO. 11:** No, Your Honor.
[12] **THE COURT:** Juror No. 11, upon further
[13] deliberation, do you believe that there would be a
[14] unanimous verdict on any of the remaining charges?
[15] **JUROR NO. 11:** No, Your Honor.
[16] **THE COURT:** Is it your position that this
[17] jury is hopelessly deadlocked?
[18] **JUROR NO. 11:** Yes.
[19] **THE COURT:** Juror No. 12, do you believe
[20] that there is a probability that the jury would
[21] reach a unanimous verdict on all of the charges if
[22] there were further deliberations?
[23] **JUROR NO. 12:** No, Your Honor.
[24] **THE COURT:** Juror No. 12, do you believe
[25] that this jury would reach a unanimous verdict on
Jaclyne Wilson

[1] remaining charges. However, the defendant, through
[2] his attorney, has asked for a mistrial and I shall
[3] grant his motion for a mistrial.
[4] We're going to set this down for
[5] sentencing February the 10th.
[6] Is that a good date?
[7] **MS. FORCHETTI:** That's fine, Your Honor.
[8] **MR. LORUSSO:** Is it, Your Honor.
[9] **MS. FORCHETTI:** Your Honor, it will be
[10] the Commonwealth's motion at this time to revoke the
[11] defendant's bail.
[12] **THE COURT:** Motion granted. I am going
[13] to --
[14] **MS. FORCHETTI:** If Your Honor would like
[15] to set a status date as to whether or not the
[16] Commonwealth will be requesting a new trial or if
[17] Your Honor would like us to announce it at
[18] sentencing.
[19] **THE COURT:** We'll do that at sentencing.
[20] That will be the date for sentencing and status of
[21] new trial.
[22] **MR. LORUSSO:** Would Your Honor indulge me
[23] for a moment to discuss with my client this mistrial
[24] aspect? Apparently there was some confusion on his
[25] part so I may withdraw that request.
Jaclyne Wilson

[1] THE COURT: It's too late now. I've
[2] already ruled on it.
[3] MR. LORUSSO: Okay. All right.
[4] THE COURT: Is there anything else,
[5] Ms. Forchetti?
[6] MS. FORCHETTI: No, Your Honor.
[7] THE COURT: All right. We'll be in
[8] recess. Thank you.
[9] (Matter concluded at 4:59 p.m.)

Jaclyne Wilson

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[2]
[3] I HEREBY CERTIFY THAT THE PROCEEDINGS AND EVIDENCE
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